

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

C'ERRA DAWN CLARK,

Defendant.

CR-13-36-GF-BMM

**ORDER ADOPTING FINDINGS
AND RECOMMENDATIONS OF
MAGISTRATE JUDGE**

This case was referred to United States Magistrate Judge John Johnston for a revocation hearing and findings and recommendations. Judge Johnston entered Findings and Recommendations in this matter on January 27, 2015. (Doc. 42). Clark admitted to having committed the following six violations:

- (1) standard condition 7 by using a controlled substance;
- (2) standard condition 9 by associating with a person engaged in criminal activity and convicted of a felony;
- (3) special condition 1 by failing to participate in substance abuse testing;
- (4) special condition 2 by failing to participate in and complete a program of substance abuse treatment;

(5) special condition 3 by failing to participate in a program for mental health treatment; and,

(6) special condition 5 by consuming alcohol.

Judge Johnston found Clark's admission sufficient to establish a supervised release violation. *Id.* Judge Johnston recommends that this Court revoke Clark's supervised release. *Id.* Judge Johnston further recommends that the Court sentence Clark to 6 months imprisonment with a term of 30 months supervised release to follow. *Id.*

Neither party filed objections. When a party makes no objections, the Court need not review *de novo* the proposed Findings and Recommendations. *Thomas v. Arn*, 474 U.S. 140, 149-52 (1986). This Court will review Judge Johnston's Findings and Recommendations for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). For the reasons stated below, this Court adopts Judge Johnston's Finding and Recommendations in substantial part.

Clark pleaded guilty to assault resulting in serious bodily injury in July 2013. (Doc. 39). Clark was sentenced to 33 months imprisonment to be followed by 3 years supervised release. *Id.* Clark signed the terms of her supervision on September 18, 2014. *Id.* Clark's first violation took place in September 2014, with the other violations taking place in November and December 2014. *Id.*

The U.S. Probation Office filed a petition requesting that Clark's supervision be revoked on December 17, 2014. *Id.* Clark made an initial appearance on January 26, 2015, before Judge Johnston. (Doc. 43). Clark waived her right to a preliminary hearing and consent to Judge Johnston conducting the revocation hearing. *Id.* Clark admitted to violating six conditions of her supervised release. *Id.* Judge Johnston recommended 6 months imprisonment followed by 30 months supervised release. *Id.*

Clark's criminal history category is I, the current offense is a Grade C violation, and the underlying offense is a Class C felony. The statutory range is a maximum of 24 months in custody followed by a term of supervised release up to 36 months, less any custody time imposed. The guideline range is 3 to 9 months in custody and up to 36 months supervised release, less any custody time imposed.

The Court finds that a term of imprisonment of 4 months followed by 30 months of supervised release to be a sufficient sentence. Clark admitted that she violated six conditions of her supervised release. Clark's violations were related to both alcohol use and substance abuse. Clark's violations constitute a serious breach of trust. A period of custody is warranted based on the number and nature of Clark's violations. A lengthy period of supervision is appropriate because it will provide Clark with the opportunity to find employment and develop life skills, and

it will ensure Clark has the support and structure needed to address any alcohol or drug abuse problems.

IT IS HEREBY ORDERED that the Findings and Recommendations (Doc. 42) are ADOPTED to the extent described above. Judgment shall be entered accordingly.

DATED this 11th day of February, 2015.

A handwritten signature in blue ink, reading "Brian Morris". The signature is written in a cursive, flowing style. Below the signature is a solid horizontal line.

Brian Morris
United States District Court Judge